

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF ILLINOIS**

UNITED STATES OF AMERICA,

Plaintiff,

vs.

FREDDIE TILMON,

Defendant.

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CRIMINAL NO. 00-30029-GPM-01

MEMORANDUM AND ORDER

MURPHY, District Judge:

Before the Court are Defendant Freddie Tilmon's two motions for a sentence reduction pursuant to 18 U.S.C. § 3582(c)(2) (Docs. 99, 102), counsel's motion to withdraw as attorney and for a "no merits" statement (Doc. 104), *see Anders v. California*, 386 U.S. 738, 744 (1967), and Mr. Tilmon's response to counsel's motion to withdraw (Doc. 105).

The Court has fully considered Mr. Tilmon's motions for reduction and counsel's motion to withdraw. As was the case when Mr. Tilmon moved for relief pursuant to § 3582(c)(2) in 2008, he is not eligible for a reduction of sentence (*see* Court's Order at Doc. 88). A defendant urging a sentence reduction under § 3582(c)(2) must show: (1) the Sentencing Commission has lowered the applicable guideline sentencing range; and (2) that the reduction is consistent with applicable policy statements issued by the Sentencing Commission. 18 U.S.C. § 3582(c)(2). If the guideline amendment has not lowered the defendant's applicable guideline sentencing range, then the Court has no subject matter jurisdiction to consider the reduction request. *United States v. Lawrence*, 535 F.3d 631, 637-38 (7th Cir. 2008); *see United States v. Forman*, 553 F.3d 585, 588 (7th Cir.), *cert.*

denied sub nom McKnight v. United States, 129 S.Ct. 1924 (2009). Such is the case here—Mr. Tilmon was sentenced based on his base offense level as a “career offender” under U.S.S.G. § 4B1.1, not on the basis of the relevant drug conduct guidelines. The Sentencing Commission’s amendments “leave the career-offender guideline unchanged.” *United States v. Griffin*, 652 F.3d 793, 803 (7th Cir. 2011). Accordingly, Mr. Tilmon is not eligible for a § 3582(c)(2) reduction. Counsel’s motion to withdraw and for a “no merit” statement (Doc. 104) is thus **GRANTED** and Mr. Tilmon’s motions for reduction of sentence pursuant to 18 U.S.C. § 3582 (Docs. 99, 102) are **DENIED**.

IT IS SO ORDERED.

DATED: February 14, 2012

s/ *G. Patrick Murphy*
G. PATRICK MURPHY
United States District Judge